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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/356,845	07/19/1999	JOHN DAVID KAEWELL JR.	I-1-50.5US	8408

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EXAMINER

BOCURE, TESFALDET

ART UNIT	PAPER NUMBER
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2631

DATE MAILED: 07/15/2003

27

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/356,845

Applicant(s)

KAEWELL JR. ET AL.

Examiner

Tesfaldet Bocure

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 11,13-23,25-27 and 29-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11,13-23,25-27 and 29-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 11 and 13-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

*OK* : **Claim 11:** Part of the sentence starting "---the base station transmitting the base station synchronization---" does not make a sense with the sentence starting "the base station communicating---" in line 24.

The "time and slot and transmitting---in lines 22-23 is not understood from the claim.

**Claims 13-14:** Claims 13-14 are inherently rejected as being dependent on the rejected base claims.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11,13-23,25-27 and 29-32 are rejected under 35 U.S. C. 102(b) as being anticipated by **Schlosser et al.** (US patent number 3,879,581, of a record).

**Schlosser** teaches a communication system having a repeater station (100) (claimed primary) for communicating with a plurality of subscriber stations (not shown, see subscriber line in figure 1) and data terminals (110), wherein the repeater terminal comprising means and steps for: receiving an information signal from one of the subscriber stations using an up-link channel and slot through a data terminal (110); detecting the received up-link signal from the terminal and the sync signal and assigning a sync. signal in a corresponding time slot for transmitting to the receiving end on the assigned time slot and frequency (2a-2f and claims 1-6) as in claims 11,13,15,16,19,22,26 and 30. The repeater unit modifies the received up-link signals to be transmitted and assigns the down-link time slot without the knowledge of the data terminals and subscriber units, and therefore it is transparent to both the subscriber and the data terminals.

Further to claims 14,17 and 20, the data terminals and the subscriber station (not shown) are outside the operating range.

The time slots in figures 2a-2f having a corresponding up-link and downlink frequencies (800 channels) as in claims 23,27 and 30, and the sync. information and control field transmitted by the spacecraft 100 will be used by the data terminals to be synchronized as in claim 32.

The repeater unit (100) modifies the received signal to be transmitted to the receiving end, therefore, reads on the claimed equalizing the received signal before retransmitting as in claims 25,29 and 31.

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The wideband downlink (121) includes a synchronization and control filed, which is utilized by the spacecraft to interrogate and call the data terminals in order to set up a circuit connection, to provide time reference for uplink synchronization of the terminals (see col. 4, lines 41-59), reads on the newly claimed secondary station aligning its frame timing according to the received signal in claims 11,15 and 19. The repeater unit is a radio transceiver reads on the claimed transmitter and receiver embedded on radio as in claims 18 and 21.

### ***Response to Amendment***

2. In response to Applicant's argument with respect to claims 11,13-23,25-27 and 29-32 that:

With respect to claim 11, in claim 11 both the primary station and the base station communicates with a plurality of stations. The claim has been amended to refer to a first plurality and a second plurality, respectively. Schlosser does not teach such an arrangement. Only the spacecraft in Schlosser communicates with a plurality of data terminals. The data terminals are shown and described communicating with the spacecraft. Whether the primary station or the base station is considered to be equivalent to the spacecraft of Schlosser, the other would not communicate with a plurality of stations. Accordingly, for that reason alone, claim 11 is distinguished from Schlosser.

Furthermore, there is no disclosure in Schlosser that the spacecraft communicates with a base station, which is a term well known in the art. The spacecraft in Schlosser clearly communicates with data terminals and not a base station as recited in the claim. Also, the spacecraft in Schlosser does not synchronize its transmit and receive timing to one of the data terminals as does the primary station of the claims. The spacecraft in Schlosser does make some adjustments to its received timing, as is inherent with any synchronous receiver.

Although Applicants' respectively submit that one skilled in art would not consider such time aligning for use in synchronous reception as synchronization of the received timing, Schlosser does not disclose that the spacecraft synchronizes its transmit timing with another station. The base station in Schlosser essentially dictates its transmit timing to the

terminals and, accordingly, has no need to synchronize its transmit timing to those stations.

The spacecraft in Schlosser is also not transparent to the data terminals. Clearly, since both of the terminals synchronize to and communicate with the spacecraft of Schlosser, clearly this spacecraft cannot be transparent to both of the users. There is no disclosure in Schlosser that the terminals could synchronize one subscriber to the other subscriber without the aid of the spacecraft and, accordingly, there is no way that the spacecraft could be deemed as being transparent to those stations. For analogous reasons independent claims 15 and 19 are also allowable. Since the other claims depend on one of the independent claims, they are also allowable and further include elements further distinguishing them from the prior art.

First, Examiner would like to point out that nowhere in the specification is showing that the primary station communicating with a plurality of base stations (claimed first plurality of stations) . Rather it is either the base station communicating with a plurality of subscriber stations, claimed secondary stations (see figure 12) or the repeater stations in figure 15 communicating to a plurality of subscriber stations. Therefore, the data terminal 110 in the system of Schloosser communicates with a plurality of subscribers using the space craft as a repeater which is the case in the instant application and as shown in 12-15.

With respect to Applicant's argument regarding the timing adjustment in the system of Schloosser, the bit timing in the spacecraft is synchronized to that of the received timing of the data terminal in order to detect the data. See col. 9, lines 20-68.

As to the argument with respect to the transparency, the spacecraft is transparent to the subscriber station as is the case with base station being transparent to the subscriber station. See figure 15 of the instant application and fig. 1 of the prior art (Schloosser).

***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tesfaldet Bocure whose telephone number is (703) 305-4735. The examiner can normally be reached on Mon-Thur (7:30a-5:00p) & Mon.-Fri (7:30a-5:00p).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on (703) 305-4378. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 305-3988 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Tesfaldet Bocure  
Primary Examiner  
Art Unit 2631



T.Bocure  
July 14, 2003